

18.12.2023
Sl. No.21(DL)
srm

C.O. No. 3788 of 2023
Sri Anil Krishna Paul
Versus
Sri Rabin Sarkar & Ors.

Mr. Nitai Chandra Saha,
Mr. Abhjijit Chandra Majumdar
...for the Petitioner.

This is an application challenging an order passed by the learned Civil Judge (Junior Division), 1st Court at Diamond Harbour, in Title Suit No.109 of 2017. An application under Order VII Rule 11 of the Code of Civil Procedure, filed by the petitioner, was rejected.

By the order impugned, the learned court below rejected the application on the ground that the defendant No.12 in the suit, could not show that multiple causes of action had been pleaded in the suit, which were not permissible in law.

Upon perusal of the application filed by the petitioner, it appears that the petitioner contended that the cause of action against each of the defendants was different and it would be difficult for the court to adjudicate the suit.

Having perused the plaint, it appears that the plaintiffs prayed for declaration of their right, title and interests along

with proforma defendants, in respect of the suit property. Only because the suit property comprises of more than 57 acres of land and there are several defendants in the suit, the suit cannot be said to be barred by law. The plaintiffs claim title and have alleged in the plaint that the defendants are trying to disturb the plaintiffs' possession and dispossess the plaintiffs.

The correctness of the allegations in the plaint and the reliefs sought for, will be decided at the trial. The contention of the defendant No.12 that multiple causes of action against multiple defendants cannot be decided in a particular suit, is not a ground for rejection of the plaint. The suit shall be decided on its own merits.

The maintainability of the suit and whether the suit was barred due to mis-joinder of parties, shall be decided by the learned court at the trial.

The revisional application is dismissed.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)